

EXHIBIT 5

Piepmeier, Sarah (SFO)

From: Amber Magee <AMagee@susmangodfrey.com>
Sent: Friday, September 30, 2022 2:12 PM
To: Edlin, Elise (SFO); Hawkins, Ryan B. (SDO); Piepmeier, Sarah (SFO); Griggs, Angela (SFO)
Cc: Ryan Caughey; Max Tribble; Kalpana Srinivasan; Bryce T. Barcelo; Stacy Schulze; Vanesa Keller; Maria Romo; Alex Kaminsky; *Cisco-Paltalk-Service
Subject: Paltalk v. Cisco: Cisco's Outstanding Depositions

Counsel,

I write about Cisco's outstanding depositions. Paltalk requested both 30(b)(1) and 30(b)(6) testimony well within the discovery period, and Paltalk renews its requests that Cisco present Barave, Belcher, and all other outstanding 30(b)(6) witnesses for deposition.

Paltalk served a Rule 30(b)(6) notice on August 10th, well before the close of fact discovery, and Cisco agreed to present witnesses to testify on various topics. Cisco has not yet presented 30(b)(6) witnesses on a number of topics, including topics assigned to Messrs. Barave and Belcher and topics 30, 37, and 38, which were formerly assigned to Mr. Boyles. Cisco ultimately chose to designate a half dozen witnesses to cover Paltalk's topics, while simultaneously refusing to make Barave, Boyles, Hamilton, and Buckles available until the last week of discovery and refusing to timely assign witnesses to various 30(b)(6) topics.

- With respect to Belcher, Paltalk requested his 30(b)(1) deposition on August 3rd. Cisco did not provide a date for Belcher's deposition until August 26th, more than three weeks after Paltalk's initial request. Cisco offered a single date for Belcher, September 21st, which was only one day before the close of discovery. Paltalk was not able to depose Mr. Belcher on 09/21, and on 09/19, Ms. Edlin said that Cisco was working to accommodate Paltalk's request for a second day of availability for Mr. Belcher. Cisco needs to provide an alternative date for Mr. Belcher where he can give both 30(b)(1) and 30(b)(6) testimony.
- With respect to Barave, Cisco formally identified Barave as a 30(b)(6) witness on September 8th and provided a single date for his deposition as well, September 16th. However, Paltalk's counsel was already preoccupied with Mr. Katz's two days of deposition that week. Still, Paltalk could have made September 16th work but for Cisco's continued refusal to identify the topics covered by Mr. Barave until September 10th. Given Cisco's delay in producing relevant documents or in even identifying the topics Mr. Barave will cover, Paltalk had insufficient time to prepare for Mr. Barave's September 16th deposition. Cisco needs to provide an alternative date for Mr. Barave's 30(b)(6) testimony.
- With respect to the topics not covered by Mr. Boyles, Cisco designated Mr. Boyles to cover a number of financial topics, including topics 30, 37, and 38. During Mr. Boyles's deposition, it became apparent that he was not prepared to fully testify on topic 30 (see Boyles Tr. 47:5-48:1.) or give any testimony on topics 37 and 38 (Boyles Tr. 106:1-25). Cisco agreed to present alternate witnesses for the remainder of topic 30, topic 37, and topic 38, and Cisco now needs to present those witnesses.

Per Ms. Edlin's September 19th email (sent just three days before the close of discovery), Cisco said it would send Belcher and Barave's ability as soon as they were able to confirm dates. During Mr. Boyles's September 20th deposition, Ms. Edlin also said that Cisco would designate additional witnesses for topics 30, 37, and

38. At no point during fact discovery did Cisco suggest that it would not be presenting these witnesses, and Cisco offered to find dates after the formal close of discovery, so these depositions could be taken by agreement. In fact, Cisco unilaterally offered to present several of its 30(b)(6) witnesses (Buckles and Hamilton) *after* the 09/22 close of fact discovery per Ms. Edlin's August 26th email.

If Cisco's position has now changed and Cisco intends to renege on its agreements to present Belcher, Barave, and all other outstanding 30(b)(6) witnesses, please agree that this email serves as our conference or provide times when you are available to meet and confer on Monday and Tuesday.

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